

JUSTIFICATION AND APPROVAL
FOR EXCEPTION TO FAIR OPPORTUNITY

1. Contracting Activity: Department of Veterans Affairs (VA)
Office of Acquisition Operations
Technology Acquisition Center
260 Industrial Way West
Eatontown, New Jersey 07724
2. Description of Action: The proposed action is for a Firm-Fixed Price (FFP) Task Order (TO) under the National Aeronautics and Space Administration (NASA) Solutions for Enterprise-Wide Procurements (SEWP) IV Government-Wide Acquisition Contract (GWAC) for the renewal of Hewlett Packard (HP) Performance Center Software maintenance support. The period of performance for this effort is a 12-month base period plus two 12-month option periods, if exercised.
3. Description of Supplies or Services: VA, Office of Information and Technology (OIT), Service Delivery and Engineering (SDE), Enterprise Systems Engineering (ESE) has a requirement for the renewal of maintenance on HP Performance Center Software licenses owned by VA. The maintenance shall consist of any and all manufacturer-released software updates, patches and versions. Additionally, the maintenance shall also include access to the manufacturer's approved support resources, such as help-desk and consultation services for the purposes of resolving problems, issues, and questions concerning the existing HP software. The total estimated price of the proposed action, including options, is [REDACTED]
4. Statutory Authority: The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505(b)(2)(i)(B), entitled "Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized."
5. Rationale Supporting Use of Authority Cited Above: Based on extensive market research, as described in paragraph 8 of this document, it was determined that limited competition is expected for the aforementioned brand name HP Performance Center software maintenance and support on the NASA SEWP IV GWAC. The mission of Enterprise Testing Services (ETS) is to provide requirements-based testing certification in order to ensure that Information Technology (IT) systems meet or exceed all customer acceptance criteria and requirements. ETS makes sure that VA IT systems perform as efficiently as possible in production use and provides a leadership role in pre-production testing at the enterprise and system platform level. In order for ETS to perform the preproduction testing mandated by its charter, it's necessary for ETS to use various Commercial Off the Shelf (COTS) software products within the testing process. HP's Performance Center software is one of the products being utilized. HP Performance Center software is integral to the testing process and without it ETS would not be able to adequately gage the performance of

software products prior to their release into a production environment. ETS has been utilizing this product in its test lab since its original procurement of HP Performance Center software licenses in FY2010 and has invested significant resources into both its implementation and in the training of ETS staff. Software maintenance is currently required for these licenses. Maintenance for the HP Performance Center software includes software upgrades and patches which require access to the source code, which is proprietary to HP. As such, only HP or one of its authorized resellers has the capability to provide the required software maintenance.

6. Efforts to Obtain Competition: Market Research was conducted, details of which are in the market research section. Although the Government is limiting competition as a result of specifying brand name items, there are numerous authorized resellers of these products on the NASA SEWP GWAC. Limited competition for this requirement among these vendors is anticipated. Furthermore, in accordance with FAR 5.301 and 16.505(b)(2)(D)(1)(i), this action will be synopsisized at award on the Federal Business Opportunities Page (FBO) and the justification will be made publicly available on FedBizOpps.gov within 14 days after award in accordance with FAR 16.505(b)(2)(ii)(D)(1).
7. Actions to Increase Competition: In order to remove or overcome barriers to competition in future acquisitions for this requirement, the agency will continue to conduct market research to ascertain if there are changes in the marketplace that would enable future actions to be competed.
8. Market Research: Market research was conducted in June 2012 utilizing the NASA SEWP IV Product Verification and Manufacturer Lookup tools and it was determined that there are nine vendors offering HP Performance Center software licenses and maintenance support as follows: four large businesses (Groups A and D), two SDVOSBs (Group B), and three small businesses (Group C). Based on the analysis of the above market research, it was determined that there is adequate competition among SDVOSB's for this requirement. Therefore, the subject solicitation will be solicited among NASA SEWP Group B contract holders only.

The Government's technical experts reviewed the specifications of competitor's software, such as Silk Performance from Borland Software Corporation and NeoLand from Neotys, Inc., and found that they did not meet the Government's requirements. It was determined that these alternate products would not be interoperable with the aforementioned items used within VA architecture and could not meet the Government's requirements.

9. Any other facts supporting the use of other than full and open competition: N/A